

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

HERBERT D. MORRIS, )  
                        )  
                        )  
Plaintiff,            )  
                        )  
                        )  
v.                     )       No. 10 C 3436  
                        )  
                        )  
SANDRA PARRIS,        )  
                        )  
                        )  
Defendant.            )

MEMORANDUM ORDER

Herbert Morris ("Morris") has filed a self-prepared Complaint against Assistant Public Defender Sandra Parris ("Parris"),<sup>1</sup> charging her with the asserted violation of Morris' constitutional rights during her handling of a suppression hearing on his behalf. This Court has conducted the initial screening called for by 28 U.S.C. §1915A(a),<sup>2</sup> and it dismisses both the Complaint and this action for lack of subject matter jurisdiction.

Nearly three decades ago the Supreme Court confirmed that a public defender, even though paid out of government funds, is not a "state actor" subject to suit under Section 1983 as having acted "under color of" state law--see Polk County v. Dodson, 454

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<sup>1</sup> "Self-prepared" is used in the sense that Morris has employed the form of 42 U.S.C. §1983 ("Section 1983") Complaint provided by this District Court's Clerk's Office for use by persons in custody, with the information called for by that document being provided in handwritten form.

<sup>2</sup> Further citations to that and any other provisions of Title 28 will also take the form "Section --."

U.S. 312 (1981). Section 1915A(b) accordingly calls for dismissal of the Complaint, and the absence of federal subject matter jurisdiction calls for dismissal of this action as well.

One other subject requires a further submission by Morris. For some reason he has attached to the Complaint only the last page of the form of In Forma Pauperis Application ("Application")--a form by which a plaintiff seeks leave to proceed without prepayment of the full filing fee, although Section 1915 provides for granting such in forma pauperis status only on condition that the \$350 filing fee be paid in future installments. There appears to be no question that Morris seeks that status, because the portion of the Application form that he has attached to the Complaint carries his signature under this statement:

I declare under penalty of perjury that the above information is true and correct. I understand that pursuant to 28 U.S.C. §1915(e)(2)(A), the court shall dismiss this case at any time if the court determines that my allegation of poverty is untrue.

Accordingly Morris is notified that he is indeed obligated to pay the \$350 filing fee, even though his effort to sue has been rejected at the threshold. Morris is ordered to provide to this Court, on or before July 29, 2010, a printout showing all transactions in his jail or prison trust fund account during the six-month period that began December 1, 2009 and ended May 31, 2010, as called for by Section 1915(a)(2), so that this Court may

make the appropriate calculations under Section 1915.



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Milton I. Shadur  
Senior United States District Judge

Date: July 12, 2010